IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 32831 of 2006(H)

PETITIONER:

VINOD.D., MUNDANTAZHIKOM,
FULL TIME MENIAL, SNV GIRLS HIGH SCHOOL,
PARAVUR, KOLLAM DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

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1. THE DISTRICT EDUCATIONAL OFFICER,
KOLLAM.

2. THE MANAGER,
SNV GIRLS HIGH SCHOOL, PARAVUR,
KOLLAM DISTRICT.

3. SUNIL SIVANANDAN,
S/O.N.SIVANANDAN, SANKER'S BHAVAN,
KOONAYIL, PARAVOOR, KOLLAM DISTRICT.

R1 BY GOVT. PLEADER (SMT. M.R. SREELATHA)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 32831 OF 2006 H

Dated this the 12th December, 2006

JUDGMENT

Case of petitioner, in brief, is as follows:

Petitioner was appointed as Full Time Menial on 2.7.1996 and his appointment was approved by Ext.P1. He was again appointed which was also approved by Ext.P2. Likewise, Ext.P3 Order of approval also is relied on. On 31.5.2006, there was a retirement vacancy of Clerk. Petitioner claims appointment under Rule 43 Chapter XIV A KER. But, overlooking petitioner's claim, steps were taken by second respondent Manager to appoint an outsider. Petitioner filed Ext.P4 representation before the Manager. Copy of the same was given to the first respondent, DEO also. But, the third respondent was appointed. Petitioner filed Ext.P5 before the DEO. He filed a Writ Petition also and this Court directed by Ext.P6 to consider the matter. On the basis of the same, by Ext.P7, the DEO found that the petitioner is eligible to be

appointed under Rule 43 Chapter XIV A KER. The third respondent filed a Writ Petition on the basis that he is a Rule 51B claimant. According to petitioner, this Court issued a direction to the DEO to take action against the Manager for not complying with the direction of the Director of Public Instruction, which is only an order recognising the Rule 51B claim of third respondent. Ext.P8 is the Judgment by which ultimately the Writ Petition was dismissed as not pressed, taking note of the sequence of events which included the fact that the Manager had issued appointment order to third respondent. However, this Court had taken note of the case of the petitioner in this case and noted that the rival claims have not been considered and it was to be thrashed out before the appropriate statutory authority. Ext.P9 is a declaration given by the Manager. Ext.P10 is a petition filed by petitioner before first respondent DEO, wherein he has prayed that approval may not be granted to the appointment given to third respondent.

2. I heard the learned Government Pleader also. I feel that

a decision should be taken on Ext.P10 after hearing the petitioner and respondents 2 and 3. Accordingly the Writ Petition is disposed of directing the first respondent DEO to consider and take a decision on Ext.P10 in accordance with law, after hearing the petitioner and respondents 2 and 3, within a period of one month from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

kbk.